IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

Bail Appl..No. 4527 of 2007()

---

CRIME NO.36/01 OF THUMBA POLICE STATION
L.P.NO.43/06 OF J.F.C.M-II, THIRUVANANTHAPURAM

: PETITIONER/4TH ACCUSED

---

S.PRADEEP, S/O. SASI,
PUTHUVALMANAKKAD, MEDANADA, KORALAMKUZHY,
KULATHUR, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.P.M.PAREETH

RESPONDENTS: RESPONDENT

---

STATE OF KERALA, REPRESENTED BY
STATION HOUSE OFFICER, THUMBA POLICE STATION,
THIRUVANANTHAPURAM DISTRICT, THROUGH
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J**

**----------**

**B.A.No.4527 of 2007**

**----------**

Dated this the 26th day of July, 2007

**ORDER**

Application for anticipatory bail. The petitioner was accused in a crime registered, inter alia, under Section 307 and 326 r/w 149 I.P.C. Investigation is complete. Final report has been filed. The committal proceedings was registered. The petitioner appeared before the learned Magistrate and was enlarged on bail. But subsequently he could not appear before the learned Magistrate. Consequently the case against those who appeared had continued and the same has been brought to termination. The case against the petitioner was split up and has been transferred to the list of Long Pending Cases. Coercive processes have been issued to secure the presence of the petitioner. The petitioner finds such processes issued by the Magistrate chasing him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful and was due to reasons beyond his control. He is willing to surrender before the learned Magistrate and co-operate with the court for the expeditious disposal of the case. He apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, therefore

prayed that directions under Section 438 Cr.P.C may be issued in his favour.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This application for anticipatory bail is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

Hand over a copy of this order to the learned counsel for the petitioner.

**(R.BASANT, JUDGE)**

rtr/-

**(R.BASANT, JUDGE)**

rtr/-